



**TENNESSEE HUMAN RIGHTS COMMISSION**  
**CENTRAL OFFICE**  
ANDREW JOHNSON TOWER  
710 JAMES ROBERTSON PARKWAY, SUITE 100  
NASHVILLE, TENNESSEE 37243-1219  
(615) 741-5825 FAX (615) 253-1886  
[www.tn.gov/humanrights](http://www.tn.gov/humanrights)

**September 23, 2011**  
**Release of the 2010-2011 Annual Report**  
**Board of Commissioner's Meeting**  
**Minutes**

**Commissioner's Present:**

Commissioner Davis  
Commissioner Jones  
Commissioner McDaniel  
Commissioner Miller  
Commissioner Osborne  
Chair Pierce  
Commissioner Starling  
Commissioner Wiggins (phone)  
Commissioner Wurzburg

**Commissioner's Absent:**

Commissioner Blalock  
Commissioner Garrett  
Commissioner Hewitt  
Commissioner Pride  
Commissioner Walker

**Staff Present:**

Beverly Watts, Executive Director  
Bobbie Porter, Special Assistant to the Executive Director  
Tiffany Baker Cox, Deputy Director  
Shalini Rose, General Counsel  
Richard Gadzekpo, Housing Coordinator  
Marcus Thomas, Title VI Compliance Director  
Lisa Lancaster, Executive Assistant

**Guests:**

Harrell Carter-Jackson Madison County NAACP  
Debra Brown-Memphis NAACP  
Bruce Wood-Maryville NAACP  
Madelreux Taylor-Memphis NAACP  
Hardin C. Traubler-Giles County NAACP  
Barbara T. Scott-Memphis NAACP  
Debra A. Davis-Memphis NAACP  
Marschel Lusk-Chattanooga NAACP

Joe Brown-Chattanooga NAACP  
Monroe Woods-Bolivar Hardeman County NAACP  
Harold Bell-Dickson County NAACP  
Glenal Bell-Dickson County NAACP  
Gloria Sweet Love-NAACP of TN  
D. G. Stewart, Jr.-Haywood County NAACP  
Katie Wilson-Murfreesboro Rutherford County NAACP  
Paula Casey-Memphis, TN  
Robert E. Davis-Nashville NAACP  
Allen Staley-SSS State of TN  
Al Wilkins-Nashville NAACP  
Lawrence Armstrong-Bradley County NAACP  
Richard Garvin Jr.-Murfreesboro NAACP  
Natwer Gaui-Murfreesboro NAACP  
Blondell M. Strong-Nashville NAACP  
Charles E. Kimbrough-Nashville NAACP  
Millicent Nelson-Murfreesboro NAACP  
Ernest Brooks-Jackson NAACP  
Jimmie Garland-Clarksville NAACP  
Greg Lyles-Murfreesboro City Schools  
Goldy Wade-Murfreesboro NAACP  
Jovada Lewis-Humboldt Gibson County  
Margaret Parr-Dyersburg NAACP  
Dawson Lewis-Humboldt Gibson County  
Michael Parr-Dyer County NAACP  
Glodine Davis-Johnson City NAACP  
Marval Williams-Murfreesboro NAACP  
Dr. Cyronose Spicer, Sr.-New Beginnings Christian Center  
Rev. Cathi Spicer-New Beginnings Christian Center  
Jaden Spicer-New Beginnings Christian Center  
Warner Dickson-Memphis NAACP  
Kenneth Robinson-Nashville NAACP  
Mollie Clark-Nashville NAACP  
Emme Metcalf- Murfreesboro NAACP

### **Call to Order**

Chair Pierce called the meeting to order at 10:15 a.m. and welcomed those in attendance. She asked that we take a moment of silence to think about the important role that both the NAACP and the THRC plays. The NAACP is one of the oldest, well known, dynamic organizations in our country and has a goal of eliminating discrimination and providing equal rights to individuals. The Tennessee Human Rights Commission's goal is to eliminate discrimination in Tennessee. These are important roles and as our speaker said this morning "It's important for us to work together in order to achieve these goals." Roll call was taken. Minutes of the July meeting were reviewed and Commissioner Miller made a motion to accept. Commissioner Wiggins seconded the motion. A vote was taken and passed.

## **Annual Report Release**

Executive Director Beverly Watts noted that she would begin with an overview of the 2010-2011 Annual Report and told attendees that a copy of the report was available for their review in binders on the table at the back of the room. The report is to be posted to our website within the week for additional viewing at [www.tn.gov/humanrights](http://www.tn.gov/humanrights) .

As many of you know, THRC was started in 1963. Our history is outlined in our annual report and there are several significant dates. In 1967 we became the Tennessee Commission on Human Development and in 1978 the Tennessee Human Rights Act became law. The reason for that is that our current Commissioner Jocelyn Wurzburg who was tenacious in her willingness to go ask people we probably would not have to support the human rights law. We always want to recognize her for all her hard work.

In 1979-1980 we got additions to the law, which were gender and age and in 1983 we got our current name, the Tennessee Human Rights Commission. In 1990 we expanded our law to include familial status and disability which gave us substantial equivalency status or the ability to apply for that with the U.S. Department of Housing and Urban Development. In July 2009 the agency got the responsibility from the State Legislature to coordinate the State of Tennessee's compliance with Title VI of the Civil Rights Act. Every state agency receiving federal financial assistance must comply with Title VI which prohibits discrimination based on race, color and national origin in any program receiving federal financial assistance.

Last year was an interesting year, it was our sunset year. So what does that mean? We have to justify our existence to the State Legislature which can either extend or sunset the agency operations. We received a two year extension this after an audit by the Comptroller. Our audit findings are listed on the Comptroller's web site. We still have obligations under our audit findings to make a report to the Legislature during the next session about how we are monitoring staff contact with witnesses.

Last year we received close almost 11,000 calls from the public. That is a lot of calls for the two people that operate our front desk. We then synthesize that down to 1,056 inquiries. An inquiry is not an official complaint but someone has alleged that one of the bases has been violated, they have given us some information but they have not signed a complaint form. We had 215 inquiries in housing and 841 in employment.

We have 28 staff people on board and we have 12 investigators. In addition to that, the commission developed rules and regulations for Title VI. To effectuate rules we have to draft them, have public hearings and then present them to the State Legislature Government Operations Committee for approval. Our rules became final for Title VI on February 13, 2011. We trained all 41 agencies receiving federal financial assistance and we received/ referred more than 190 complaints for investigations.

Out of those 1,056 inquiries we accepted 533 complaints in employment. Accepted complaints are those that are complete which meet our jurisdiction and have been signed by the complaining party. We closed 460 dual filed cases in employment. Of those cases 26% were based on race, 23% based on gender and 20% were based on disability.

In housing, we filed 140 cases and 34% were based on race, 28% were based on disability and 11% were based on gender.

Our legal division reviews over 450 investigative plans which determines the direction and focus of every investigation, over 600 cases prior to closure, as well as 36 cases requesting reconsiderations. Reconsiderations are those in which a complaining party disagrees with our final decision, provides evidence that they think we overlooked and ask us to reconsider the finding.

Cause cases are not a large part of what we find. During this last year we found cause in 6 cases. We negotiate/mediate many more cases. Every case in employment is given the option to mediate a complaint within the first 45 days of receipt. Last year we completed 81 mediations and negotiated \$81,000 plus in benefits. We had a total of \$201,221 in employment related settlements and \$219,000 in housing related settlements for a total of \$501,966 in monetary benefits. Non-monetary benefits include reinstatement for employment, attorney's fees, promotion and training and in Housing it could be that people were let out of their leases, any kind of credit issues in files related to leases were removed and there might have modifications and other things that could not be monetarily identified. That means that we could not put a dollar amount on it but they were significant. The other thing that we negotiate is a letter of apology, or neutral letters of reference in employment. In housing if they have been evicted and we have settled the case the eviction is removed which is a credit related issue.

Last year we were involved with and partnered with over 125 organizations. Our partnerships include exhibits, presentations, keynote speakers, and training. We conduct an annual Employment Law Seminar where we train human resource staff, attorneys and anyone else, who would like to pay the fee, explain and providing updates in employment law. We work with fifteen other organizations to conduct a Fair Housing Matters Conference where we train real estate providers and others on fair housing law, issues and trends.

We started our own facebook page this year so if you can find it and like us we would appreciate it. We update this page on an ongoing basis in addition to our website. We don't tweet just yet but we are working on it.

We had 95 specific outreach events, provide information through our website, developed a state wide radio campaign, and completed a number of written articles by our chair and executive director appearing which appeared in weekly publications and major publications such as the Tennessean and the Commercial Appeal. One of the reasons we asked you to sign in is because this is a public meeting and we need to document who is here. We estimate that through all of those things that we reached about 4 million people. How deep the reach is always the question. Some people have set in training sessions and some have picked up a brochure. We want to reach as many people as possible so they understand how to file complaints and understand issues.

Over this last year we found that 46% of all the calls we received come from Middle Tennessee and most of those from Davidson County. We found that 33% came from East Tennessee. There is an interesting phenomenon going on in West Tennessee as only 18% of our calls come from West Tennessee. We keep trying to reach out and find out why this number is so low. Later on we will tell you a little bit about an initiative we have going on there.

We also have found out that through intake we determined where people find out about us. Overwhelmingly they find out about us from friends and family. With that friends and family plan they do tell people about what we do. Radio and television account for a very small amount of referrals. The EEOC and the Department of Labor are resources along with the unemployment office where people go for unemployment insurance. This information comes from the complaint forms that are received by our office.

Again we have 28 people with 2 people answering the phone. We want you to understand that our staff does a lot of work with a few resources. The number one industry where we receive complaints are manufacturing (14%), government (13%) and food service (12%).

Last year we continued to reduce the amount of time that it takes us to investigate complaints of discrimination. We have 12 investigators and we have seen a downward spiral in the number of cases. In 2008-2009 our average case age was 289 days and now it is 248 in employment. In housing we closed 50% of our cases in 100 days or less which is mandated by HUD. Our housing staff which consists of all new employees has done an excellent job. This office is located in Knoxville.

There were a number of bills passed in last year's session that impact what we do. I talked about Sunset; it is legislation so it was passed that gave THRC an extension to operate. Without it we would have closed on June 30, 2011. The next Sunset review is June 30, 2013. Several other bills including HB 1641 and SB 40 passed this session. Last year there was a significant court case of the Tennessee Supreme Court level, Gossett v. Tractor Supply Company and it conformed to federal standards with respect to summary judgment. This was overturned during this session. Some employment lawyers felt that this was a good law for complainants which made it easier to obtain summary judgment in state court for complaining parties. These same attorneys now believe that it is a little bit more difficult. Another bill is HB 600 and SB 632 passed which creates a definition for sex in the TN Human Rights Act. That definition is defined as what is on one's birth certificate at birth...

There were many others, HB 938, HB 939 and HB940 which were taken off notice by the sponsor. They did not pass and they are not in our annual report but those were bills that would make it more difficult to prove discrimination. It noted that discrimination had to be the sole cause as opposed to what current federal standards are which is mixed motive. We might see these bills in the next Legislative session.

Our Title VI Program is outlined in the report but we do have a 2 year report which you can find if you go to our website. This concludes my overview of the 2010-2011 Annual Report.

Commissioner Wiggins made a motion to accept the report and Commissioner Miller seconded the motion. A vote was taken and passed.

### **Executive Director's Report**

Executive Director Watts began her report by noting that we currently have two vacant positions, one is a Title VI compliance position and it has been approved to fill. Marcus Thomas or Tiffany Baker Cox will be happy to answer any question you have about that vacancy.

Mediation Training will be held the week of November 28, 2011 through December 2, 2011 and if any commissioners are interested please contact Tiffany Baker Cox. We have an audit report that is due to the comptroller's office on October 17, 2011. This is in response to the Sunset. We are required to verify witness contact, we are doing surveys at the end of month with respondents and complaining parties about how well we are doing service and whether there were any concerns or issues and whether or not we provided them with all the information about their rights and responsibilities.

About four years ago we had an issue where one of our investigators who is no longer with us did not contact the witnesses. The legislature asked us to continue to contact witnesses to determine whether or not they were contacted by our investigators. We are continuing to do that. Both Paula Casey and Francisco Guzman are working on that project and we should have a full report that will be presented to the Budget and Audit Committee before submission to the Comptroller and the report will be shared with the full board at the November meeting.

We are working on rules for next year which will update our current rules regarding English in the workplace due to a bill that was passed in 2010, the cause definition we are re-clarifying as the current definition relates only to EEOC related charges and our staff continues to operate under the HUD standard which is a lesser standard but is not in our rules.

You may hear us talk about updating our ADA rules so that are consistent with the ADAA. We will let you know if we can find a sponsor and what that will look like as this is a legislative initiative as opposed to a rule.

We received an upward modification for our EEOC contract and Tiffany will provide more details. Our performance assessment from HUD reflects that our timeliness is at 51% which is above the HUD 50% standard and staff continues to reduce aged cases with 96% completed. One year ago that was not the story and Richard will give more details about that in his report.

A motion was made to accept the Executive Director's report by Commissioner Jones. It was seconded by Commissioner McDaniel and a vote was taken and passed.

### **Budget and Audit Committee Report**

Commissioner Osborne, Chair of the Budget and Audit Committee reported on the September 14, 2011 meeting that was held telephonically. There were two resolutions that

came out of the meeting, with one of them being that there would be a presentation about the updated budget request to the full Commission body at this meeting. The other resolution was about information the Finance and Administration noted that we had been asked as an agency to identify potential 5% additional reduction that amount to \$85, 900. The report made by the staff and Mr. Staley and presented to the Budget and Audit Committee notes that they have identified \$50,000 of that amount with the issue being where would the rest of the cuts would come from.

The committee thanked the staff for their work and for keeping the committee informed. Our official action was to hear that report and to endorse the direction that they were going which was below the line cuts which means non salary cuts which made up the bulk of the cuts identified.

Commissioner Starling made a motion to accept the Budget and Audit committee report and Commissioner Davis seconded the report. A vote was taken and passed.

Allen Staley from Shared Services noted that each agency is required by the Department of Finance and Administration to submit a budget for the Fiscal year 2013 by September 30, 2011 and part of those instructions include identifying a 5% reduction of state appropriated dollars. The Finance & Administration department will meet with the agency in November to discuss the budget. After the finance department and budget office hears all of the agency discussions, the Governor will recommend the budget to the legislature and there will be legislative budget hearings with all of the agencies. Ultimately the legislature will pass the budget with proposed budget reductions by June 30, 2012. He directed participants to the summary page of the budget document looking at the transmittal letter which shows that the budget request for the 2013 is a total of \$2,479,100. This is composed of 1.9 million in salaries and benefits and \$576,000 in operational expenditures. The state appropriation for THRC is \$1,717,400 and in the FY 2013 budget there will be authorized 29 positions.

Looking at the next page, this is a summary in more detail of the budget providing a breakout of the funding sources and on page 3 are actual 2010 and 2011; estimated 2011 and 2012 and the base request amount 2012 and 2013.

In preparing the budget we have to consider three fiscal years at the same time because we have just closed FY 2011 which is from July 1, 2010 to June 30, 2011 and in the year just concluded we actually spent \$2,137,200. This total is composed of various expenditure categories including salaries and benefits and then other operational expenditures.

This amount represents being within the budget and with a combination of some funding sources the Commission has met the required savings amount of \$100,000 that is deemed by Finance and Administration. They require agencies to revert savings back to the general fund and THRC has met that obligation.

The second column represents the estimated for 2011-2012 and represents the current fiscal year 2012 budget that is \$2,479,100. This becomes the starting point for the fiscal year 2013 budget which is under discussion.

The next pages provide additional detail for certain below the line expenditures for your review. Below the line expenditures means operational expenditures. The Budget office defines the budget into two main categories with the above the line expenditures being personnel costs, salaries and benefits and below the line expenditures are other operational costs such as travel, office expenses supplies or everything else.

There is a page that talks about the mission of the Human Rights Commission, who the customers, clients and users are and the purpose of the commission and also includes the performance measures that have been established for the commission and the average annual employment cases that are targeted to be closed and housing cases and also a breakout of the different sections or divisions within the Human Rights Commission which include Administrative, Housing, Employment, Legal services, Communications and Title VI.

We were required to identify a 5% budget reduction that must be submitted with the 2013 base request. The budget office received our official number after the Budget and Audit Committee met and they rounded the number up to \$86,000 so our official target is \$86,000. That may not sound like a lot of money but for a small commission that is already very lean in its operations, that is a lot of money and it is hard to identify cuts without serious impacts to the Human Rights mission. The areas of the cuts, on page for of the reduction section, we proposed to take \$6,500 from travel; \$20,000 from supplies; \$7,000 from rentals and insurance; \$5,000 motor vehicle operations; \$6,000 from professional services (other state agencies) and \$41,500 from benefits. We don't like to touch salaries or benefits but we felt like we had no choice to come up with the \$86,000 to meet the 5%. This means that there will be less wiggle room within the budget for salary related issues. The last page of the document is a snapshot of the tool we use to come up with the reductions and gives additional detail comparing FY 2011, 2012 and the purposed 2013 budget.

Executive Director Watts asked me to mention that we will still have to meet the \$100,000 reversion in the 2013 budget. The reversion is just another word for savings understanding the budget, turning back in \$100,000 of general fund state appropriations. That will still be expected on top of cutting the budget by \$86,000.

If the \$86,000 in cuts is enacted by the legislature it is going to impact the commission's ability to do its function, meaning that there will be less travel and less outreach efforts. It is going to be difficult to be in compliance with the mandated budget instructions.

Commissioner Wurzburg said that other than our contract with HUD and EEOC that bring us in some revenue, we don't really try to bring in other revenue when offering services to citizens such as our Employment Law Seminar. Is it against the rules for us to try and make a profit, like taking it out on the road to east and west Tennessee?



Executive Director Watts answered that currently the Employment Law Seminar pays for itself and it's in a silo so that any dollars above the cost is available for the next seminar. We can do that but the pressure is high and the resources limited to develop these seminars. With 29 staff positions, some of which are not filled, putting on these seminars is very time consuming. If we were in the event management business, that is a very time consuming process and those at the NAACP know that. There is no prohibition but the question is how much are we making and what are we putting out. We would have to have a staff person to do that if we are traveling, we have to get the speakers and put those in place. I have done enough conferences to know that you have 90 days at a minimum to plan effective programs. It sounds wonderful to do and we have done it. We have written grants to HUD and have not been successful. Again, that will take a staff person to perform these duties and it will take away from other duties. I think what we are trying to say is how do we do that, how do we maximize resources that we have to ensure that when we finish it is something that will generate income.

The Employment Law Seminar fee is \$75 per head for a full day and that is not a lot of money. As a state agency we know that many agencies charge more than that but when you do that, we are into different accounting issues so there are other things that come into play that might generate more cost in terms raising the fee but we do look for other options and opportunities to do those. We are always competing with SHRM, Bar Associations and others that are doing Employment Law Seminars, the EEOC will do their annual technical assistance conference in the summer and they charge \$395 a head so our options and opportunities are pretty limited in that respect.

An occasional seminar here or there for an hour to an hour and a half is not a problem but when you get past that, it does pose some serious issues for us. Commissioner Wurzburg noted that there is really no other avenue for us to try to bring in any other revenues.

Executive Director Watts noted that there is the possibility that if we bring it in that budget will tell us we cannot spend it or we have to cut some of the other funds to balance the budget. So if we added \$86,000 of state funding then 5% of whatever the one set of flux the 86 cents so we don't get all of that. We could and do have about \$75,000 in federal funds that we cannot spend in this fiscal year because it was not booked as revenue by the time. So, we have \$75,000 in the bank that we can't spend because we don't have authorization to spend it and anything that comes in we must get authorization to spend.

Our budget is \$2.4 million this year and we did not book \$75,000 this year. Can we spend it next year? We hope so, but we don't know what next year's spending looks like.

Commissioner Starling asked if in fact the reduction is more than what we anticipated from the state legislature, we've got \$75,000 in the bank; can we use that additional money to offset if there is a need for that? Allen Staley answered that we cannot use it as an offset because it is not recurring funds. Executive Director Watts added that we could always go back and make a case but that is up to the budget office and at the legislature's discretion. The budget office would have to agree. If we said, Budget we need this \$75,000 this year, it is an emergency and they agreed, then we would all go over to the legislature. Budget would say we agree with THRC and we would have to justify this to the legislature.

Commissioner Starling asked then if that particular act would have to go to the Governor. Executive Director Watts answered that the budget goes through the budget office and not through the Governor's office. The Governor's office generally submits its budget and the budget office is responsible for content so it is not as if we would have to go ask the Governor for more money.

Our Budget hearing is in November and we will try to make a case to the budget office for whatever but we are not optimistic that they will let us do anything that will offset. Allen Staley noted that we checked with the budget office if we could use some of the carry forward savings to offset the reduction and they said no because it is one-time money and there is not recurring funding source for it.

Executive Director Watts noted that with the reversion and the cuts we are now at \$186,000 down from the \$2.4 million dollar budget for 2013 and there could be more cuts because we don't know what the federal budget is going to look like with deficit reductions. I need to put on the table that while we anticipate a contract at a certain level with the federal government, there could be some reductions on that which could impact our ability to function. If we don't generate enough revenue, it could affect the above and below the line items in the budget.

Commissioner Osborne made a motion to accept Mr. Staley's report as information and Commissioner Wiggins seconded the motion. A vote was taken and passed.

Chair Pierce added, You can see that the budget is a fairly complicated process and it seems like last year we started the year with a budget cut and we ended with a budget cut and we are starting next year with a budget cut so that trend of budget cutting is something that we are trying to live with and doing the best job we can. You will hear from our staff members that they are working very hard. We are very fortunate to have tremendous employees who do an excellent job.

### **Employment Case Report**

Tiffany Baker Cox, Deputy Director's introduced herself and made note that she supervises the employment and housing enforcement divisions of THRC and the mediation program. Her report covers the period July 1, 2011 to August 31, 2011 during which 143 inquiries were received and 89 of those complaints were accepted. Seventy-five of those cases were dual filed with the EEOC and 14 were THRC only cases. THRC only cases are those that do not meet EEOC jurisdictional threshold meaning that they probably have less than 15 employees and cannot be filed with the EEOC.

The first chart shows that in July Davidson County remains the number one location that complaints come from followed by Knox County and then by Hamilton County. In August it was Davidson first and second was Hamilton County followed by Knox County.

During July and August the agency closed 90 cases, 72 of which were dual filed and 18 THRC only. Title VII based cases remain the number one basis for complaints, followed by Title VII/ADEA, which are age cases and then followed by age cases. There were 10

mediations conducted in July and August and 5 were successful and 5 reached an impasse, with a 50% success rate.

Three settlements were reached with \$20,755.07 in benefits received by complainants. Twenty percent of our cases were administratively closed and the average closed age was 312 days. The total of open cases in inventory at the end of August was 321 cases with an average charge age of 241 days.

The second and third charts show comparative statistics for the same timeframe for last year and you can see that our inquiries are down as last year it was 176 and this year 143. Charges accepted are down as well but closed cases are up.

The investigators are doing a very good job of closing cases and have reduced the age of cases down to 312 from 338 days last year. Some large settlements were received last year which account for the difference in settlement amounts and this year's figures more accurately reflect what generally happens.

The EEOC contract year runs from October 1 to September 30 and the statistics are reflected in the chart on page 2. We are pleased that we were able to get an upward modification to our EEOC contract. Every year EEOC will look at the number of charges that we have closed during the measurement period and then will tell us how many cases our contract will be. Our original contract was for 426 cases and during the timeframe between October and May or what the EEOC calls the modification period, we are required to close 75% of our cases.

We were successful in meeting that goal and because of that we were able to get additional 30 cases added to our contract which increases our revenue by \$18,000. This is the second consecutive year that we have received an upward modification. This is due to the investigators doing a good job of monitoring their cases, closing them in a timely manner and staying on track.

We have scheduled a Training event for October 6, 2011 for all housing and employment investigators in the Nashville office which will begin at 8:30 a.m. with a continental breakfast and training beginning at 9:00 a.m. You are invited to join us.

The Title VI division has a new position and we are awaiting approval from Human Resources to open that register and start accepting applicants. We will have Mediation training from November 28, 2011 through December 2, 2011.

A motion to accept the Employment Report was made by Commissioner McDaniel and seconded by Commissioner Starling. A vote was taken and passed.

### **Housing Case Report**

Housing Coordinator, Richard Gadzekpo who reported on the timeframe of July 1, 2011 to August 31, 2011 gave the housing report. We received 39 inquiries and 32 were accepted as complaints. During the period disability and race were the top complaints received. Of the 32 cases accepted, 52% were based on disability and 22% on race.

During the period 19 cases were closed and 79% were closed within 100 days. For the past two years, THRC has been in the doghouse with HUD as we were unable to meet the performance standard they required of us. This we have turned this around and come out of the doghouse and set new standards and we are hoping to maintain to this new standard. During the timeframe we closed 55.8% in 100 days. We used to have cases over 300 days old that were sitting on the shelf and now we have eliminated all our aged cases.

I would like you to join me in thanking the Executive Director who came to give us pep talks and the Deputy Director who is right on top of the situation and the legal department especially who we call at the 11<sup>th</sup> hour and they make sure what we need to do. I also want to thank the staff that is not here. I am always telling them we are not going to compromise and we are going to meet the standard and we are going to thoroughly investigate and save the public interest. They have always been on top of the job. I want you to know that we have dedicated people who are championing the cause of human rights.

Chair Pierce added that the reason for the delay in some of the cases is because of shortage of staff. HUD stole our staff members and then we did not have staff to do the investigations. It was a cycle that we had to get through but the most promising thing that happened was when we promoted our housing coordinator, Mr. Gadzekpo who has done an excellent job.

A motion to accept the Housing Report was made by Commissioner Jones and seconded by Commissioner Osborne. A vote was taken and passed.

### **Legal Report**

General Counsel, Shay Rose noted that the legal department consists of two attorneys who work closely with the housing and employment departments in closing cases. Our main responsibilities are to counsel with investigators to make sure that the cases are investigated properly and meet the correct legal standard, to make sure we turn over every stone to make sure the case is thoroughly investigated. The other responsibility is to prosecute cases where we find discrimination has occurred.

The legal report covers the July 1, 2011 to August 31, 2011 timeframe and in employment we closed 89 cases. Of those cases, 12 were administrative closures and the others found no discrimination occurred. Legal reviewed 72 investigative plans, which mean we worked with the investigator to define the path the investigation will take. Three reconsiderations or appeals were completed.

In housing we closed 20 cases with 4 of those being Administrative closures, there were 2 cases where we found discrimination. We reviewed 9 investigative plans and completed 1 reconsideration. We completed 18 copy requests which must go through legal for review of what we are allowed to give them. As noted by the Executive Director, this year legal reviewed more cases and investigative plans than ever before.

The cause cases are where we found that discrimination had occurred. The employment cause case is about a corrections officer that was terminated and he is African American

and after the investigation we found that they terminated him for a reason that was a terminable offense but was not as bad as some employees who were Caucasian and were not terminated. They had Caucasian officers that were involved in drugs and fights and this officer just had a bad attitude. We compared it to what the other officers were treated and not fired. We found that he was treated differently because of his race. We are trying to find the complainant who has moved away. If we can locate the complainant, it will probably go to a hearing.

In housing we have two related cases involving three people of Chinese descent trying to rent an apartment. During the phone call the respondent said the he detected a Chinese accent and asked if the caller was Chinese. When the called admitted that he was Chinese, the respondent said that he did not rent to Chinese people because they stir fry a lot which gets grease everywhere and makes everything very dirty and hard to clean up. This case was mediated but did not get all the way to an agreement as emotions are running high. The mediator is still working with the respondent who has employed an attorney to reach an agreement. It is hopeful that an agreement will be reached that will include among other things, training for the landlord.

Commissioner Miller made a motion to accept the legal report. Commissioner McDaniel seconded the motion. A vote was taken and passed.

### **Outreach & Education**

Bobbie Porter reported on the timeframe of July 1, 2011 to August 31, 2011 during which THRC participated in 13 Education and Outreach events and 6 speaking events reaching approximately 2,800 individuals where we explained the role of the commission or educated participants about what we do, our investigative process or about their rights.

We partnered with the regional EEOC office for an outreach event where we provided information to the public about the differences and similarities between state and federal discrimination laws. This was a new event that we co-hosted with EEOC and was held at the Nashville Public Library with about 25 people attending. Our Executive Director, Deputy Director and Commissioner Wiggins participated in this event.

I want to acknowledge and thank investigators Saadia Williams in the Knoxville Housing Office and Barbara Gardner in the Chattanooga Office for assisting with outreach events in their areas.

Commissioner Wurzburg made a motion to accept the Communications report. Commissioner Jones seconded the motion. A vote was taken and passed.

### **Title VI Compliance Report**

Marcus Thomas, Title VI Compliance Program Director reported on the timeframe July 1, 2011 to August 31, 2011 and noted that the office has participated as a lecturer with the Nashville Bar Association Government and State Lawyers CLE where there were 120 attendees representing all the state departments. Executive Director Watts also attended.

We have also developed statewide policy with respect to the 180 day filing deadline. It was noted where several agencies had different deadlines with respect to accepting

complaints. As a result, policy guidance was developed and issued to the Commissioners and Title VI personnel to accept Title VI complaints within 180 days.

During the timeframe, the Title VI Compliance Program has begun to implement the complaint referral and monitoring process where we are holding the departments and agencies accountable for detail and attention given to Title VI complaints, as well as knowing when complaints are filed within the various departments and agencies. Often complainants may file directly with the Human Rights Commission because they do not know with which particular state department to file a complaint. We will refer those complaints. We have a monitoring process where departments must send in a case summary report as well as allow our office to give suggestions for issues they may have overlooked in the Title VI investigation. This process is currently being implemented.

We have received 82 inquiries and accepted 16 as complaints and we have closed 2 cases. We have referred one complaint to the Tennessee Arts Commission, and one to the Department of Children's Services and 14 to the Department of Correction.

The Title VI Annual Report for the last two years is complete and available on the website. We wanted to highlight that 46% of our total Tennessee State Budget is Federal Financial Assistance. Almost half of Tennessee's state budget is Federal funds so it is critical that we maintain compliance with Title VI.

In June of 2010 we trained 67 Title VI Coordinators who represented 36 departments out of the 41 state departments. At this training, all Title VI compliance requirements were reviewed and the expectations for agency implementation plans were explained. Implementation plans are due on October 1 of each year.

We have reviewed 41 Implementation plans and found that 20 or 51% were in compliance and 21 or 49% were issued findings. The most prevalent finding was for failure to train departmental staff on Title VI. This was addressed by the issuance of policy guidance which can be found on our website with respect to LEP (Limited English Proficiency), training and the 180 filing deadline for filing complaints.

Commissioner Osborne asked that Director Thomas explain what Title VI is for clarification to audience members. Title VI prohibits discrimination on the basis of race, color or national origin under any federally funded program or activity.

Commissioner Starling asked why there were so many complaints from the Department of Corrections. The complaints are coming from inmates who have a lot of time to file and a lot of them are inquiries and not jurisdictional for the program. In other words, many of these complaints do not allege discrimination on the basis of race, color or national origin. They may involve disability issues that are referred back to Corrections, and sometimes these complaints may involve religion.

Chair Pierce noted that the Title VI program is new to the Tennessee Human Rights Commission and we assumed that responsibility two years ago. We are developing that program and Mr. Thomas has done an excellent job bringing about documents and all the

information together so that people will understand that this is an important program that needs attention and the Tennessee Human Rights Commission has been giving it that attention.

Commissioner Wiggins noted that it was a good move to take Executive Director Watts with you to the Nashville Bar Association meeting.

A motion to accept the Title VI report was made by Commissioner Starling and seconded by Commissioner Osborne. A vote was taken and passed.

### **Announcements**

Chair Pierce announced that if you want a copy of our Annual Report on disc, you will need to sign up on the sheet at the back of the room and a copy will be sent to you, or you can contact Bobbie Porter and she will see that you get one.

For the Commissioner's, the retreat has been re-scheduled for the Thursday evening before our November 18, 2011 Board meeting and all are encouraged to attend.

Thanks were offered to the NAACP and their president, Gloria Sweet-Love, for inviting us to join their State Conference. At the breakfast, the message was clear, that we have to work together to make a difference and to make changes and to stand up for the people who do not have people to stand up for them.

Chair Pierce made a special recognition special recognition of a person in the audience. She stated she worked closely with Dr. Charles Kimbrough in 1973 when he was the NAACP president and the Tennessee Human Rights Commission was called the Tennessee Commission for Human Development. I always cherished that time and she indicated it was good to see him here.

Chair Pierce announced that the Nominating Committee Chair will be Commissioner Starling from Middle Tennessee. Other members are Commissioner Osborne from East Tennessee and Commissioner Cocke from West Tennessee. They will recommend nominations for a new Chair and Vice Chairs for the coming year at the November meeting.

The Tennessee Economic Council for Women will hold its annual conference at the Nashville Airport Marriott on October 25<sup>th</sup> and discuss issues involving independence for women and \$1,000 scholarships will be given to six people across the state. Three non-traditional women who are interested in going back to school and getting their education and three high school seniors will receive these scholarships. Application can be made on the Tennessee Economic Council on Women website.

### **Question and Answer**

The meeting was opened to questions and comments from the public.

I am Goldie Wade, president of the Murfreesboro NAACP and Chair of Legal Redress for many years. On a regular basis I make referrals to the Tennessee Human Right

Commission mainly concerning employment issues and housing issues and in doing this a big part of what I do is legal redress. Are there any particular things that I need to look for to kind of scrutinize the complaints to consider the validity of the complaints before I make a referral?

Executive Director Watts asked that he take a brochure and make sure that the complaint fits one of the classes and noted that familial status is only for housing complaints. All we need is for it to be jurisdictional which means it occurred within the last 180 days and it states a claim under the Act. A complaint that states they treat everybody bad or they won't do this or that for me but fail to identify a basis or protected class may not be jurisdictional but we ask additional questions on those and we sometimes find out we do have jurisdiction.

Our intake unit will go through a series of questions and our complaint form is on line. If at some point you refer someone and they want to go to the form and answer those questions that would be helpful. To meet our jurisdiction it must be one of the protected class groups whether they allege race, age, disability, etc. and all of that is in our brochure for housing, employment and public accommodation and for Title VI.

Validity of a case is interesting as we never know until we get into an investigation if what is alleged is substantiated by the investigation. Is it timely, 180 days or less; does it meet the Tennessee Human Rights Act, that means one of the bases identified in the brochure; does it have the requisite number of employees, eight or more if it is a Tennessee Human Rights complaint only or 15 or more if it is a dual filed case with the EEOC. Our contract allows us to file under the Tennessee Human Rights Act and under Title VII if it is under 15 employees and 20 or more if it is age discrimination.

Have they explained what happened? Where they dismissed? Were they not given training? Were they denied some opportunity in employment in terms and conditions? Not given a raise?

In housing, were they denied housing? Not given an opportunity to apply? Or were they evicted for some reason while others were not evicted and were those persons were of a different race, gender and maybe did or did not have a disability.

Gloria Sweet-Love asked Director Watts to speak about the classes under which complaints can be filed. Executive Director noted that there are brochures available at the back of the room for all attending and invited them to take them as they leave. She also noted that the brochure was available on our website or people can contact Bobbie Porter who will make sure they receive the brochures.

In employment the classes are race, color, religion, national origin, sex, disability and age over 40. Creed was left off our brochure but we will correct that. In housing it is illegal to discriminate based on the sale, rental and financing of housing based on race, color, religion, national origin, sex, disability, familial status or creed. In public accommodation it is illegal for a place of public accommodations to refuse or deny the full and equal employment of goods, facilities and accommodations based on race, creed, color, religion, sex, age or national origin.



In Title VI it is illegal for any entity receiving federal financial assistance to discriminate based on race, color or national origin. That is tied to federal dollars and as noted earlier 46% of the state's funding comes from the federal government so every state agency must be in compliance. On our website and in the brochure it talks about the kinds of things that are illegal. This is a real quick overview of what is covered. EEOC parallels THRC as does HUD on most of these issues. If you would like our full regulations, they are on the website as well.

Commissioner Osborne noted that he runs a clinic for Latinos' and shared that all that information is also available in Spanish on the website and the commission employs staff that speak Spanish and can interpret if necessary. Executive Director Watts noted that interpretive services are available for all other languages. She also noted that responsibility is ours under Title VI.

Gentleman who did not identify himself said, the state of Tennessee population of African Americans and other minorities are 16 to 18% yet there are no population statistics. What are the Tennessee Attorney Generals Conference involvement are responsible for Title VI as we look at the funding for the operations of Correctional facilities to reflect cases that extends all the way down to the local level.

Executive Director Watts answered that she is not sure what the Attorney Generals responsibilities are but they must have a program that prohibits discrimination based on race, color and national origin. The numbers, in and of them may not support a finding of discrimination. It can be part of a finding, but the numbers has never been and will not be the sole bases for determining that discrimination exists. However, the Attorney General is responsible for assuring that there is a fair and equitable system that gets to a case by case analysis to determine if discrimination has occurred in individual cases.

Across the board if there are other issues, the US Department of Justice, Civil Rights Division will look at those issues cases and where there are some ongoing issues that the Department of Justice was reviewing we will defer those kinds of cases.

He asked, does that include employment opportunities? Executive Director Watts answered that Title VI does not include employment unless the monies were designed for employment purposes. The Department of Labor gives money to help train people so they can be employed. So therefore, employment would be covered under Title VI. It is also covered under Title VII and under the Tennessee Human Rights Act. In the Department of Corrections, unless the grant was for employment specifically it would not be covered. So you may not have a true Title VI issue and it may be broader and deal with equal access under Title VII.

Unidentified Gentleman said he was from the Dickson County NAACP and he wanted to thank the Director for the case that he has been defending for the last 16 years. Dickson County Court ruled that this lady had to get out of housing but I told her that housing was ours not the Dickson County Courts. I defended her for 16 years and finally in the last couple of months they said you are right and that she could stay.

Executive Director Watts noted that we do work hard and in the end we were able to find the right people to make that happen.

Kathy Spicer, Lauderdale County asked if you could address why in west Tennessee there is only 18% of complaints and secondly do you take on the big cases because I really think that maybe we were discriminated against by the Department of Education with an interpretation of a regulation in the guidelines. Because we work with the Department of Education and we have the same requirements from the Department of Human Services we see that there is some discrepancy in interpreting what is the meaning of the regulation and what is not.

Executive Director Watts said that we are really not sure why the people of West Tennessee are not calling because the agency is out doing education in the area. The EEOC office is in Memphis. There is this concern we have that there is a pocket that we can never really discern why that pocket exists with respect to low numbers. Sometimes it has to do with access to federal and other state agencies and/or attorneys that may account for the low number. We find that Nashville has THRC, EEOC, HUD and complaining parties will call all of us. So sometimes we are working to make sure that all of us are not running after the same issues.

With respect to the other issue you raised it might be part of a Title VI complaint and we need to talk to you about that and Marcus Thomas will be happy to talk with after the meeting.

Mr. Thomas wants you all to understand that we review all of the corrections complaints but we only have jurisdiction on those alleging discrimination based on race, color, or national origin. If it is a civil rights issue on any other basis, it has to be referred to the Department of Corrections. Marcus is right, they have a lot of time so in the past they have filed a lot of suits but a lot of that access is no longer available based on federal legislation.

Again we refer all allegations but some people will send us complaints because they don't like the food or they don't have access to recreation and sometimes it is not about race but about other issues. That is why we get a large number of complaints. There are signs posted in every prison both private and public that tell people how to file these cases. We found that our corrections system is telling them to file everything with us. So that is why we are getting so many. We have now asked them to segregate out if it is a Title VI claim it can go directly to Department of Corrections. If it is a Title VI claim, it can come to us or it can go to the Department of Justice.

Unidentified lady said that in relation to your level of complaints in West Tennessee, I know that in Memphis there are enough other agencies that people have an opportunity to file with but I am concerned about the other communities in West Tennessee which may not be served by EEOC, NAACP, Fair Housing Center and all of the other agencies. I am concerned for the smaller communities who don't have that kind of access. And maybe this is where you need to do more outreach in Dyersburg or Humboldt. I hear from those communities and I can't serve them like they should be served.

Executive Director Watts said and that is why we are coming to Jackson December 6, 2011. We will be across from the fairgrounds and we will send invitations to the surrounding communities. We have done this once before in Jackson and we had about 50 people to come from Dyersburg, from UT Martin, and from a variety of places. However, when we do it for those 40 or 50 people we hope they will take it back out and expand their base in the smaller communities.

When the NAACP has been in other counties I have made my way there. We are trying to make sure that we are out and doing that and will come to anyone who asks, anytime, anyplace. You might get me, you might get another staff member but we will be happy to come out and do that because we do that all the time. We just need to make sure that we can maintain some money so we can continue to do that. The date for the Jackson event is December 6, 2011.

We have all the email addresses for all the state NAACP members and we will be sending out the details for the meeting and will also contact by phone if necessary. That notice will go out in early November. It will start about 3:00 p.m. and go to about 7:00 p.m.

We had three listening sessions last year, the one in Memphis was on the night the tornado struck and we got caught in the Stax Museum, then we went to Johnson City and had 35 persons at the roundtable and 42 people at the listening session and then Nashville at a police precinct where we had about 36 people.

The roundtables focus on organizations and agencies and the listening sessions are open to the public. We are going to combine them at the Jackson event in December. Please let us know if there are organizations that you think we need to invite.

Jimmy Garland, President, Clarksville NAACP said that he is working with one resident in Middle Tennessee that is having a problem with public housing. The problem that they are alleging is that public housing was built on a landfill. The people are having problems with asthma and all kinds of personal health problems. Who do I go to, which organization can I contact locally? I have been going to the Department of Justice asking questions and the bottom line is we need somebody local that we can reach out to get some answers.

Executive Director Watts asked Marcus Thomas to meet with Mr. Garland after the meeting and suggested that it is probably going to be the Tennessee Housing Department which is responsible for funding and there is some funding from HUD and somebody in the HUD office in Nashville is responsible for public housing and then let me see if we can't pull the fair housing HUD people and all of us together look at it to see what can be done.

We might also be talking about the Department of Health and Human Services because it is health related as a well. And we might be talking about Department of Justice as a third federal partner because at some point it is creating some issues that might be outside of our jurisdiction because these are federal dollars used to build this housing facilities but it crosses a couple of lines because you have Health and Human Services, and maybe Department of Justice issues with respect to this issue and how the decision was made is ultimately going to be looked at as it relates to civil rights issues.

Mr. Garland noted that he has DVD's with testimony from the people that live in that community and they can probably get you some guidelines. I just wanted to reach out to see if you are the right one to contact. Executive Director Watts said let us talk and put the right people together with you and see because it might be outside of our jurisdiction as a traditional civil rights issue because public housing is based on income issues and if this public housing, when did they build it, what did it look like, and what does it look like now.

An unidentified lady asked if the Commission has the jurisdiction to investigate local government and whether or not it will allow you to look at a local government to determine whether or not it is in compliance with respect to Title VI. And if not, where does such a complaint go?

Executive Director Watts answered that the short answer is yes. Generally the state agency will pass through money to local government so that gives us the hook. If at some point they determine that there is no state pass through money then we will determine which federal agency gave the money and which one you need to go to so that there is an option to come to us and or the federal agency..

Commissioner Wurzburg stated that I had an occasion to ask the question of Mr. Jealous at a meeting that we were attending and I brought up the same conversation that we had at our last telephonic meeting which was concern about this movement going across the country, particularly in conservative legislature that are bringing forth conservative model legislation and Mr. Jealous said he was familiar with this group and they are on the case.

Our very competent Director very properly pinned my ears back just a little to tell me that I, as a member of the NAACP, have been doing the exact same thing as this ultra conservative group that entitles them to freedom of speech and so forth and that is purpose model legislation to legislatures and you have a right to do this. The difference of course is I think the NAACP are trying to fall into civil rights and what I see happening out of the American Legislative Exchange Council is they are trying to denigrate civil rights and human rights.

And there is not anything that we can actually do legally about that except to not reelect people who want to denigrate our human rights and civil rights and I guess the only reason I wanted to bring this up again at this meeting with my fellow commissioners and fellow NAACP members is that we have got to be vigilant. We have got to be on this case. These things that are happening are devastating and in Memphis this photo ID business, we know what that is about and we have got to be able to meet that challenge. I don't know whether this is the proper venue since. The point is this; we have got to be on the case. And thank you for properly reminding me.

Executive Director Watts said that I just want to make sure that we understand that we are a non-partisan, non-political organization and our role is to give information. The NAACP can take direct action.

Gloria Sweet-Love thanked Commissioner Wurzburg for being on the case and being concerned. In our session yesterday morning we were talking about the ALEC.org crafting model legislation and that is why the ID bills in Indiana and Tennessee look very much

alike because they just pull them off the website and get somebody to carry them and go on.

We had the National Coalition of Black Credit Unions president, Mr. Bill Lucy as our speaker this morning and one of the things he talked about is that we have got to do our due diligence by going to the polls and preaching our voter turnout and preaching our involvement in the NAACP and other direct action groups and making sure that people of good will ban together and that we vote our conscience because ladies and gentlemen it is not up against us, it is them against us. The Ronald Reagan Era folks that had all the money, they are trying to put in laws now to suppress us. I have so much passion about it because a long time ago in the early 1900's my grandfather owned about 600 acres of land over in West Tennessee and he lost it. They took it for him. He had to pay a voting tax in order to vote and I saw my father stand in line for days at a time in sweltering July heat in rural West Tennessee just for them to allow one or two people to register to vote.

So I never missed voting. So what we have to instill now, and remind each other of is that it does not matter if it is a dog catchers race, we need to go vote. We need to vote our conscience, we need to vote for people that believe in the American dream the way we do, that don't want the rich to get richer but that believe that everybody ought to have an equal place in America.

Executive Director Watts expressed thanks to President Sweet Love noting that you do something that others don't do and that is the NAACP Day on the Hill where you meet with legislators, those who stand with you and those who stand against you and those who stand in the middle. And you work very hard to educate persons and we are fortunate to work with you during this time period to insure that they understand the legislation and the impact that it has on people in their districts and across the state of Tennessee.

Representative Gilmore's Religion Day on the Hill along with others and there are a number of opportunities to go and educate with the direct action agencies and we thank you for allowing us to come and be a part of that as well.

Unidentified man said thank you to the Commission, the Executive Director and the Board Members for allowing us to sit in on this meeting and for the service you provide to the communities. I am from a rural community and we really need the services provided by this Commission and I just want to thank you for your existence and the support that you give.

Chair Pierce said you have a lot of questions and if there are questions or issues or concerns we will be available to answer them following the meeting. Staff will be happy to answer questions.

Burts Wood, Executive member of the Nashville branch and very much appreciate the opportunity to comment. The Human Rights Commission says the state is consistently 47, 48, 49 in obesity, infant mortality, and that targets certain particular, not the Vanderbilt and Hillsboro Villages in Nashville, but the Jefferson Streets. This is the same in Memphis and Jackson and Knoxville and Appalachia. So across the board we have people who struggle to even get born that are covered by you.

My question is, I am a volunteer and I work on three landfills that seem to suffer particularly in black areas like Dickson County has all sorts of rights they don't get and that is from TDOT and TDEC. The TDEC Title VI coordinator never leaves the building. She has been asked to come and she does not get involved. She has wonderful credentials on paper but she just does not do anything. Is that a complaint you face or could you take a complaint on Dickson County landfill Title VI primarily black people and the Title VI coordinator of Tennessee Department Environment and Conservation?

Executive Director Watts answered that we probably could and if we can't we can refer you to the federal agency who gets that money because there are federal dollars, so we need to talk about that with respect to whether or not the Title VI person comes out, I don't know the details but let's get those specifically and look at that and see if that is something we can do. I think the broader issue might be the landfills and the impact about health and identify the appropriate state or federal entity.

On landfill issues Health and Human Services and Justice have looked at some of those and there have been issues across the country raised in a number of lawsuits against major employers. There have been suits filed in Louisville KY where DuPont workers were successful because they had a higher cancer rate. There are some proactive things going on by the local health departments in Louisville so I think there are some models and policy initiatives that we might be able to share with you to see if you can find an advocate to work with you at the state level and then deal with the other issues from a complaint perspective.

If you can get policy changed, It may not help those who suffer over the long term. Policy changes and development with respect to culture change will eliminate or prevent future issues. We can talk about that when the meeting is over.

Gloria Sweet Love announced that our national President Ben Jealous will be here as our keynote speaker tomorrow evening at 6 :00 pm on the University campus so we urge you to get a ticket and come and hear him as he is just off the Troy Davis case. I think he will have a lot to say to us and we invite you all to come and join us.

Our luncheon speaker is Alice Huffman and I would like to introduce her to the body. She is President of the California State Conference NAACP and a National Board member and chair of our criminal justice committee.

Chair Pierce stated that something really important has happened here and that is talking to each other, sharing information and asking questions. We can never give up anything that we have a right to do. Speaking up, voting, talking about these issues is a way to get it going and we have to stick to it.

Each Commissioner introduced themselves and told what division they represent.

Chair Pierce received a motion to adjourn from Commissioner Osborne and a second from Commissioner Miller. A vote was taken and passed and the meeting was closed at 12:10 p.m.